

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

DAVID MCKAY,

Plaintiff,

v.

ANDREW SAUL,
Commissioner of Social Security,

Defendant.

1:20CV237

ORDER

This matter comes before the Court on Defendant's Motion to Remand filed by Andrew Saul, Acting Commissioner of Social Security ("Commissioner"). (ECF No. 15.) Pursuant to sentence four of 42 U.S.C. § 405(g), the Commissioner seeks entry of a judgment reversing her decision, with a remand of the cause for further administrative proceedings. Plaintiff consents to this motion.

On remand, the Commissioner, through the Appeals Council, will refer Plaintiff's case to an administrative law judge ("ALJ") for further proceedings, including, but not limited to, determining what, if any, conflict exists between the vocational expert's (VE) testimony and the residual functional capacity assigned to Plaintiff, resolving any conflicts between the occupational evidence and the information in the Dictionary of Occupational Titles, taking additional VE testimony, if necessary, and issuing a new decision.

Pursuant to the power of this Court to enter a judgment reversing the Commissioner's decision with remand in Social Security actions under sentence four of 42 U.S.C. § 405(g), and in light of the information set out in the record and in Defendant's request to remand this

action for further proceedings, Defendant's Uncontested Motion will be granted. *See Melkonyan v. Sullivan*, 501 U.S. 89 (1991).

IT IS THEREFORE ORDERED that the Commissioner's decision finding no disability is REVERSED, and that the matter is REMANDED to the Commissioner under sentence four of 42 U.S.C. § 405(g). The Commissioner is directed to remand the matter to the ALJ for proceedings consistent with this Recommendation. To this extent, Defendant's Motion for Judgment on the Pleadings, (ECF No. 19), is DENIED, and Plaintiff's Motion for Judgment on the Pleadings, (ECF No. 15), is GRANTED. However, to the extent that Plaintiff's motion seeks an immediate award of benefits, that is DENIED.

A Judgment will be entered contemporaneously herewith.

This, the 11th day of May 2021.

/s/ Loretta C. Biggs
United States District Judge